

Message Text

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ACTION IO-14

INFO OCT-01 EUR-12 ISO-00 SSO-00 NSCE-00 INRE-00
ACDA-12 CIAE-00 INR-10 L-03 NSAE-00 EB-08 NRC-05
OES-09 SOE-02 DODE-00 SS-15 SP-02 CEQ-01 PM-05
AF-10 ARA-10 EA-10 NEA-10 /139 W
-----056389 171047Z /10

O 171005Z JUL 78
FM AMEMBASSY VIENNA
TO SECSTATE WASHDC IMMEDIATE 7186
INFO USDOEHQ WASHDC IMMEDIATE
USDOEHQ GERMANTOWN IMMEDIATE

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DEPT PASS IO/SCT
DOE FOR AMMONS, IA

E.O. 11652: N/A
TAGS: AORG, EAID, IAEA, PARM
SUBJECT: REQUEST FOR INSTRUCTIONS ON GUIDING PRINCIPLES
FOR IAEA TECHNICAL ASSISTANCE

REFS: (A) STATE 41007, (B) STATE 97630, (C) VIENNA 5522,
(D) VIENNA 2622

SUMMARY: THE CHAIRMAN OF THE IAEA BOARD OF GOVERNORS HAS
HELD SEVERAL CONSULTATIONS ON THE DRAFT REVISION OF THE
GUIDING PRINCIPLES AND GENERAL OPERATING RULES TO GOVERN
THE PROVISION OF TECHNICAL ASSISTANCE BY THE AGENCY. IN
THESE CONSULTATIONS THERE HAVE BEEN SEVERAL PROPOSED AMEND-
MENTS TO THE DOCUMENT THAT WAS SUBMITTED TO THE TECHNICAL
ASSISTANCE COMMITTEE AS AN ANNEX TO GOV/COM.8/60 LAST
DECEMBER. THE INTERESTS OF THE UNITED STATES GOVERNMENT,
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AS REFLECTED IN THE DEPARTMENT'S INSTRUCTIONS REFS A & B,
HAVE BEEN PERCEIVED AS THREE FACETED: ESTABLISHMENT OF
CLEAR RULES REGARDING THE HANDLING OF SENSITIVE TECH-
NOLOGY UNDER THE TA PROGRAM ADMINISTRATION, ADVANCEMENT OF
U.S. INTERESTS IN THE IAEA BY IMPROVING TA PROGRAM ADMIN-
ISTRATION, AND PRESERVATION OF U.S. FLEXIBILITY IN MAKING
IN-KIND GRANTS FOR IAEA TECHNICAL ASSISTANCE. THIS CABLE

REPORTS THE RESULTS OF THE CONSULTATIONS AND REQUESTS INSTRUCTIONS FOR FURTHER CONSULTATIONS SCHEDULED FOR JULY 19, 1978. THE REMAINING DIFFICULT KEY ISSUE TO RESOLVE IS THE WORDING OF THE PROHIBITION ON TECHNICAL ASSISTANCE PROJECTS IN NUCLEAR EXPLOSIVES. COPIES OF THE LATEST JUNE 5 DRAFT OF GUIDING PRINCIPLES HAVE BEEN POUCHED TO IO/SCT & AMMONS. END SUMMARY.

1. UNITED STATES NON-PROLIFERATION INTERESTS WOULD BE DIRECTLY AFFECTED IF THE GUIDING PRINCIPLES PERMITTED TA PROJECTS INVOLVING RESEARCH ON, DEVELOPMENT OF, OR THE MANUFACTURE OF PEACEFUL NUCLEAR EXPLOSIVES. THE ORIGINAL LANGUAGE OF THE GUIDING PRINCIPLES AT PARAGRAPH 1.I. EXPRESSLY PROHIBITED SUCH PROJECTS. THE REPRESENTATIVES OF INDIA AND ARGENTINA PROPOSED REMOVAL OF THE FIRST SENTENCE OF PARA 1.I. WHICH READS AS FOLLOWS "TECHNICAL ASSISTANCE SHALL NOT BE USED FOR THE MANUFACTURE OF ANY NUCLEAR WEAPONS OR TO FURTHER ANY MILITARY PURPOSE OR FOR THE MANUFACTURE OF ANY OTHER NUCLEAR EXPLOSIVE DEVICE." (AGENCY SECRETARIAT HAS INFORMED MISSION OFFICER THAT THE OMISSION OF THE WORD "NUCLEAR" AS A MODIFIER OF "EXPLOSIVE DEVICE" IN THE JUNE 5 DRAFT WAS INADVERTENT AND WILL BE CORRECTED.) OPPOSITION TO THE INCLUSION OF THIS LANGUAGE AND IN PARTICULAR TO THE LAST CLAUSE MAY STEM NOT FROM AN EXPECTATION THAT PROJECTS IN NUCLEAR EXPLOSIVES WILL RECEIVE A WARM WELCOME IN THE TECHNICAL ASSISTANCE COMMITTEE, BUT RATHER FROM ITS SIMILARITY TO THE LANGUAGE IN LIMITED OFFICIAL USE

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RECENT SAFEGUARDS AGREEMENTS AND IN THE NPT. THERE IS NO APPARENT REASON WHY THIS PARTICULAR LANGUAGE LIFTED AS IT WAS VERBATIM FROM A SAFEGUARDS AGREEMENT, HAS TO BE IN THE GUIDING PRINCIPLES IF IT IS CLEAR THAT CERTAIN TECHNOLOGIES ARE NOT PROPER SUBJECT MATTER FOR TECHNICAL ASSISTANCE PROJECTS. WITH THIS IN MIND, MISSION OFFICER HAS CONSULTED LOCAL REP OF ARGENTINA AND FOUND THAT THERE IS A POSSIBILITY THAT THE GOVERNMENT OF ARGENTINA COULD AGREE TO THE FOLLOWING LANGUAGE IF SUBSTITUTED FOR THE PRESENT FIRST SENTENCE OF PARAGRAPH 1.I. "TECHNICAL ASSISTANCE SHALL BE PROVIDED ONLY FOR PEACEFUL USES OF ATOMIC ENERGY. FOR PURPOSES OF THE TECHNICAL ASSISTANCE PROGRAM, PEACEFUL USES OF ATOMIC ENERGY SHALL EXCLUDE NUCLEAR WEAPONS MANUFACTURE, THE FURTHERANCE OF ANY MILITARY PURPOSE AND USES WHICH ARE READILY CONVERTED TO FURTHERANCE OF MILITARY PURPOSES SUCH AS REASEARCH ON, DEVELOPMENT OF, TESTING OF, OR MANUFACTURE OF ANY NUCLEAR EXPLOSIVE DEVICE." MISSION RECOMMENDS THAT US REPS BE AUTHORIZED TO PROPOSE THE FOREGOING AS COMPROMISE LANGUAGE IN PARA 1.I. SHOULD GENERALLY ACCEPTABLE LANGUAGE NOT BE FOUND, IT IS CERTAIN THAT DIVISIVE DEBATE WILL RESULT AND A STRONG LIKELIHOOD THAT THE ISSUE WILL BE PUSHED TO A

VOTE IF IT IS CONSIDERED BY THE BOARD.

2. ANOTHER APPROACH TO RESOLUTION OF THE IMPASSE ON PARAGRAPH 1.I. HAS BEEN SUGGESTED BY THE IAEA SECRETARIAT AS FOLLOWS: THE REFERENCE TO "OR THE MANUFACTURE OF ANY OTHER NUCLEAR EXPLOSIVE DEVICE" WOULD SIMPLY BE DELETED, AND IMMEDIATELY AFTER BG APPROVAL OF THE DOCUMENT THE U.S. WOULD MAKE A STATEMENT INQUIRING OF THE SECRETARIAT WHETHER THE SECRETARIAT INTERPRETS THE PHRASE "OR TO FURTHER ANY MILITARY PURPOSE" AS PRECLUDING THE PROVISION OF AGENCY TECHNICAL ASSISTANCE FOR RESEARCH ON, DEVELOP-

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L-03 NSAE-00 EB-08 NRC-05 OES-09 SOE-02 DODE-00
SS-15 SP-02 CEQ-01 PM-05 /139 W
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O 171005Z JUL 78

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MENT OF, OR MANUFACTURE OF ANY NUCLEAR EXPLOSIVE DEVICE. IN RESPONSE THE SECRETARIAT WOULD REPLY IN THE AFFIRMATIVE (EXACT LANGUAGE COULD BE WORKED OUT IN ADVANCE.) MISSION BELIEVES IT CLEARLY PREFERABLE TO HAVE THE BOARD APPROVE LANGUAGE MAKING THIS EXPLICITLY CLEAR, BUT IF IS IMPOSSIBLE TO ACHIEVE A CONSENSUS ON SUITABLE LANGUAGE FOR THIS PURPOSE, THE SECRETARIAT'S PROPOSAL MAY BE AN ACCEPTABLE "FALL-BACK". THE MAIN DISADVANTAGE, OF COURSE, IS THAT ALL BOARD MEMBERS DO NOT NECESSARILY BECOME BOUND IN ANY WAY BY A SECRETARIAT INTERPRETATION. ON THE OTHER HAND, AS A PRACTICAL MATTER, IT IS THE SECRETARIAT WHICH FORMULATES THE TA PROGRAM, AND THE SECRETARIAT COULD FIND A VARIETY OF REASONS FOR NOT INCLUDING A PARTICULAR REQUEST FROM A MEMBER STATE IN THAT PROGRAM.

3. THE SECOND SENTENCE OF PARAGRAPH 1.I. HAS BEEN AMENDED TO MAKE IT CRYSTAL CLEAR THAT AGENCY SAFEGUARDS, SHALL BE APPLIED IN CONNECTION WITH TECHNICAL ASSISTANCE TO "ALL FORMS OF TECHNICAL ASSISTANCE IN ALL SENSITIVE LIMITED OFFICIAL USE

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TECHNOLOGICAL AREAS" IN ACCORDANCE WITH GOV/1853 (GOV/INF/334) OR AS SUBSEQUENTLY AMENDED BY THE BOARD. THE REPRESENTATIVES OF THE UK AND AUSTRALIA HAVE EXPRESSED RESERVATIONS ON THE SPECIFIC WORDS USED. MISSION UNDERSTANDS THE RESERVATION OF THE UK REP TO HAVE BEEN REMOVED AND THAT THE UK AT LEAST CAN NOW BE EXPECTED TO SUPPORT THE ABOVE LANGUAGE IN THE SECOND SENTENCE. MISSION RECOMMENDS THAT US ALSO SUPPORT THIS LANGUAGE. THE THIRD SENTENCE OF THE ORIGINAL DRAFT WHICH SPECIFIED B.G. APPROVAL OF SAFEGUARDS AGREEMENTS HAS BEEN OMITTED AS SUPERFLUOUS.

4. THE SOVIET REP PROPOSED THE ADDITION OF A PARAGRAPH PROVIDING THAT PREFERENCE BE GIVEN TO NPT PARTIES IN THE PROVISION OF TECHNICAL ASSISTANCE. DESIRABLE THOUGH THE MISSION MIGHT FIND SUCH A PREFERENCE, IT WOULD BE EXTREMELY DIVISIVE IN THE BOARD. IT IS LEGALLY QUESTIONABLE BECAUSE THERE IS CLEAR DISTINCTION BETWEEN GIVING PREFERENCE TO NPT PARTIES IN THE ALLOCATION OF EXTRA-BUDGETARY RESOURCES AND IN DISTRIBUTING THE AGENCY'S REGULAR TA PROGRAM RESOURCES. A PREFERENCE BASED ON NPT ADHERENCE HAS BEEN ARGUED TO VIOLATE ARTICLE III C OF THE STATUTE. WE BELIEVE AN ATTEMPT TO IMPOSE AN NPT PREFERENCE IN CONNECTION WITH EXPENDITURE OF THE AGENCY'S REGULAR PROGRAM RESOURCES TO BE LEGALLY VULNERABLE, SINCE IT WOULD HAVE THE EFFECT OF DENYING ASSISTANCE TO SOME MEMBER STATES WHICH ARE IN GOOD STANDING AND WHICH ARE ENTITLED TO THE FULL BENEFITS OF MEMBERSHIP. IN OUR VIEW SUCH DISCRIMINATION USING EXTRA-BUDGETARY RESOURCES CAN BE LEGALLY SUPPORTED (SEE PARA 8 BELOW). IF THE DEPT CONCURS, THE MISSION PROPOSES TO ATTEMPT TO PERSUADE THE SOVIETS TO DROP THEIR INSISTENCE ON INCLUSION OF THAT PARA IN THE DOCUMENT AND INSTEAD TO MAKE AN APPROPRIATE STATEMENT

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FOR THE RECORD, AS THEY HAVE CONSISTENTLY DONE IN BOARD MEETINGS.

5. PARAGRAPH 23 PROVIDES FOR CHANGES WITHOUT BG

APPROVAL IN TECHNICAL ASSISTANCE PROJECTS, SUBJECT TO THE LIMITATION THAT MODIFICATIONS "SHALL NOT BE CARRIED OUT WITHOUT PRIOR BOARD APPROVAL IN CASE OF A PROJECT WHICH, IN ITS ORIGINAL OR MODIFIED FORM, REQUIRES THE APPLICATION OF SAFEGUARDS". MISSION SEES THIS LANGUAGE AS SUFFICIENT TO ESTABLISH THE CONTROL OF THE BOARD OF GOVERNORS OVER PROJECTS INVOLVING THE "SENSITIVE TECHNOLOGICAL AREAS" SPELLED OUT IN GOV/INF/334, AND RECOMMENDS SUPPORT FOR IT.

6. THE U.S. INTEREST IN IMPROVED TA PROGRAM ADMINISTRATION ESSENTIALLY REQUIRES THAT THE PROGRAM BE SUFFICIENTLY WELL MANAGED TO PERMIT DISPOSITION OF THE AVAILABLE FUNDS IN A REASONABLY TIMELY FASHION. IT IS BECOMING APPARENT THAT THE TA PROGRAM WILL HAVE STEADILY INCREASING RESOURCES PLACED AT ITS DISPOSAL AS A RESULT OF POLITICAL PRESSURE IN THE BOARD OF GOVERNORS. TO DISPENSE A SIGNIFICANTLY LARGER VOLUME OF TA, SEVERAL ADMINISTRATIVE CHANGES ARE NEEDED IN PROGRAM. THE REVISED GUIDING PRINCIPLES CONTEMPLATE SEVERAL SUCH IMPROVEMENTS: MULTI-YEAR PROGRAMMING, REVISION OF THE PROGRAM DEVELOPMENT SCHEDULE, PROGRAM DEVELOPMENT MISSIONS TO MEMBER STATES, PROVISION FOR CHANGES IN THE APPROVED PROGRAM, A RESERVE FUND, AND PROCEDURES FOR CANCELLING PROJECTS UNIMPLEMENTED AFTER AN UNREASONABLY LONG DELAY. NOT ALL OF THESE ARE ENTIRELY NEW, HOWEVER THEIR INCLUSION IN THE GUIDING PRINCIPLES WILL STRENGTHEN THE SECRETARIAT'S HAND IN MANAGING THE PROGRAM, AND REGULARIZE SOME EXISTING PRACTICES. THE ADDITION OF PROVISIONS FOR LARGER SCALE LONG-TERM PROJECTS AND THE CHANGES IN THE SCHEDULE OF PROGRAM DEVELOPMENT ARE THE PRINCIPAL CHANGES IN LIMITED OFFICIAL USE

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PRACTICE. CHANGING THE SCHEDULE IS INTENDED TO REARRANGE PROGRAM DEVELOPMENT ACTIVITIES SO THAT THE MAIN PROGRAM DEVELOPMENT ACTIVITY COMES IN THE SPRING RATHER THAN DURING THE SUMMER VACATION SEASON. PROVISIONS FOR LARGER SCALE LONG-TERM PROJECTS HAVE BEEN ADDED TO FACILITATE THE EXPENDITURE OF THE AVAILABLE FUNDS. THE EFFORT REQUIRED TO RECRUIT ONE EXPERT IS ABOUT THE SAME REGARDLESS OF THE LENGTH OF THE MISSION. THE SAME SITUATION PERTAINS WITH REGARD TO EQUIPMENT IN THAT THE WORK REQUIRED TO PURCHASE AN EXPENSIVE ITEM IS ABOUT THE SAME AS FOR AN INEXPENSIVE ITEM. CLEARLY THEN, PROGRAM EFFICIENCY SUGGESTS THAT LARGER LONG-TERM PROJECTS BE ADOPTED. COUPLED WITH THE LARGER LONG-TERM PROJECTS IS THE REQUIREMENT THAT SUCH PROJECTS "SHOULD BE RELATED TO THE DEVELOPMENT PLANS OR PRIORITIES AND OBJECTIVES OF THE RECIPIENT MEMBER STATES". THIS PROVISION WAS THE SUBJECT OF CONSIDERABLE DISCUSSION AND MAY STILL BE OPPOSED. SOME LDC REPS, NOTABLY THE REP OF MEXICO, WANTED TO ELIMINATE THIS REQUIREMENT OR AT A MINIMUM LIMIT THE RELATIONSHIP TO THE RECIPIENTS NUCLEAR DEVELOPMENT PLANS ETC. THE PURPOSE OF THE LIMITATION IS LIMITED OFFICIAL USE

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TO PREVENT THE ATOMIC ENERGY AUTHORITY IN A RECIPIENT COUNTRY FROM FINDING PET PROJECTS NOT DEEMED SUPPORTABLE BY THE CENTRAL GOVERNMENT. REF D CONTAINS A DISCUSSION OF THIS ISSUE. MISSION RECOMMENDS SUPPORT FOR ALL ASPECTS OF THE GUIDING PRINCIPLES AIMED AT IMPROVED TA PROGRAM ADMINISTRATION.

7. DURING THE CONSULTATIONS THERE WAS A DISCUSSION OF THE EXTENT TO WHICH TA RECIPIENTS WOULD BE OBLIGATED TO APPLY THE AGENCY'S RECOMMENDATIONS FOR PHYSICAL PROTECTION. AN IMPASSE DEVELOPED IN PARAGRAPH 1.J. OVER THIS ISSUE. THE REP OF INDIA HAS ACCEPTED COMPROMISE LANGUAGE WHICH SPECIFIES THAT FACILITIES ETC "RELATING DIRECTLY TO THE TECHNICAL ASSISTANCE PROGRAM BE SUBJECT TO THE AGENCY'S STANDARDS FOR PHYSICAL PROTECTION." THIS LANGUAGE

IS INTERPRETED TO MEAN THAT FACILITIES, ETC. WHICH RECEIVE SUPPORT FROM THE TA PROGRAM WOULD BE SUBJECT TO THE AGENCY'S RECOMMENDATIONS FOR PHYSICAL PROTECTION. MISSION BELIEVES THIS IS A STEP FORWARD IN ACHIEVING GREATER ADHERENCE BY MEMBER STATES TO THE RECOMMENDATIONS OF INFCIRC/225/REV.1 AND RECOMMENDS US ACCEPT PROPOSED LANGUAGE.

8. SOME NON-NPT PARTIES HAVE RESERVATIONS ABOUT THE GIVING OF EXTRA BUDGETARY RESOURCES TO THE AGENCY WITH STRINGS, PARTICULARLY WHEN A PREFERENCE FOR NPT PARTIES IS REQUIRED. THERE HAVE BEEN MILD RUMBLINGS IN THE BOARD OF GOVERNORS OVER THIS ISSUE (SEE REF C) AND IT COMES UP AGAIN IN THE GUIDING PRINCIPLES AT PARA 4. THE REP OF ARGENTINA HAS PROPOSED THAT A SENTENCE BE ADDED SPECIFYING THAT AGREEMENTS, BETWEEN DONOR STATES AND THE AGENCY, SPECIFYING THE TERMS UNDER WHICH DONOR STATES MAKE RESOURCES AVAILABLE TO THE AGENCY BE COMPATIBLE WITH THE LIMITED OFFICIAL USE

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AGENCY STATUTE (SEE ARTICLE III C OF THE STATUTE). SO LONG AS NO ATTEMPT IS MADE TO SPECIFY OR IMPLY THAT THE NPT OR THE ACT OF GIVING ASSISTANCE THROUGH THE IAEA ONLY TO NPT PARTIES IS INCOMPATIBLE WITH THE AGENCY'S STATUTE, THE MISSION RECOMMENDS THAT THE ARGENTINE AMENDMENT BE ACCEPTED WITHOUT COMMENT. BUT IF SUCH AN INTERPRETATION IS APPENDED, THEN THE MISSION RECOMMENDS MAKING A STRONG STATEMENT REBUTTING SUCH AN INTERPRETATION SPECIFICALLY REFERRING TO AGENCY STATUTE ARTICLES III.A.1 AND III.B.1 IN SUPPORT OF OUR POSITION. LIMITATIONS ON THE US AND OTHER DONOR STATES WHICH WOULD PREVENT PREFERENCES FOR NPT PARTIES COULD REDUCE THE IMPACT OF INITIATIVES SUCH AS THAT ANNOUNCED BY THE US IN THE RECENT BOARD OF GOVERNORS MEETING AS REPORTED REF C. KIRK

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TECHNICAL ASSISTANCE
Control Number: n/a
Copy: SINGLE
Draft Date: 17 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978VIENNA06414
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780292-0868
Format: TEL
From: VIENNA USIAEA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780750/aaaabqki.tel
Line Count: 371
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: e2ebf071-c288-dd11-92da-001cc4696bcc
Office: ACTION IO
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 STATE 41007, 78 STATE 97630, 78 VIENNA 5522, 78 VIENNA 2622
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1980987
Secure: OPEN
Status: NATIVE
Subject: REQUEST FOR INSTRUCTIONS ON GUIDING PRINCIPLES FOR IAEA TECHNICAL ASSISTANCE
TAGS: AORG, EAID, PARM, IAEA
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/e2ebf071-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014